

Message Text

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PAGE 01 THE HA 05812 131206Z

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ACTION SS-15

INFO OCT-01 EUR-12 ISO-00 SAJ-01 OMB-01 CIEP-01 MC-02

AID-05 ACDA-05 CIAE-00 DODE-00 PM-04 H-02 INR-07 L-03

NSAE-00 NSC-05 PA-01 PRS-01 SP-02 USIA-06 EB-07

NRC-05 TRSE-00 ERDA-05 COME-00 IGA-01 JUSE-00 FTC-01

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R 131029Z NOV 75

FM AMEMBASSY THE HAGUE

TO SECSTATE WASHDC 7021

C O N F I D E N T I A L THE HAGUE 5812

E.O. 11652: GDS

TAGS: MASS

SUBJECT: MUNITIONS CONTROL AND AGENTS' FEES

REF: STATE 255260

1. SO FAR AS WE ARE AWARE, AGENTS' FEES IN CONNECTION WITH MILITARY SALES HAVE NOT YET BECOME AN ISSUE FOR DUTCH GOVERNMENT, AND THERE HAVE BEEN NO DEMANDS SO FAR FOR DISCLOSURE. ON THE OTHER HAND DUTCH WOULD PROBABLY BE RECEPTIVE TO INFORMATION ABOUT AGENTS AND FEES IF PROVIDED. (ALTHOUGH DASSAULT BRIBERY CASE INVOLVED AN AGENT, IT DID NOT FOCUS ATTENTION ON HIS FEES -- THE HAGUE 5776).

2. WE SEE POSSIBLE COMMERCIAL ADVANTAGE TO US IN NETHERLANDS' FROM DISCLOSURE BECAUSE IT MIGHT RESULT IN LOWER AGENTS' FEES FOR US SALES, AND BECAUSE IT MIGHT ALSO PLACE US IN FAVORABLE LIGHT VIS-A-VIS FIRMS OF OTHER COUNTRIES WHICH ENGAGE IN PRACTICE OF PAYING EXORBITANT FEES.

3. UNILATERAL DISCLOSURE, HOWEVER, MAY PLACE U.S. COMPANIES AT A COMPETITIVE DISADVANTAGE. IT OCCURS TO ME THAT ONE WAY

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PAGE 02 THE HA 05812 131206Z

AROUND THIS PROBLEM WOULD BE TO SEEK AGREEMENT WITHIN A

MULTILATERAL ORGANIZATION THAT THE SOLICITATIONS AND PROCUREMENT CONTRACTS OF EACH MEMBER GOVERNMENT WOULD CONTAIN A STANDARD DISCLOSURE CLAUSE SIMILAR TO THE ONE EMBODIED IN PROPOSED AMENDMENT TO OUR OWN INTERNATIONAL TRAFFIC IN ARMS REGULATIONS (PARA 4 REFTEL). WHILE BOTH UN AND OECD ARE CONSIDERING CODES OF CONDUCT FOR MULTINATIONAL CORPORATIONS WHICH MIGHT BE SUITABLE FRAMEWORK FOR SUCH AGREEMENT, PERHAPS NATO WOULD BE A MORE APPROPRIATE FORUM IN WHICH TO BEGIN. A COMMON NATO DISCLOSURE CLAUSE FOR ALL PROCUREMENT -- MILITARY AND OTHERWISE-- BY NATO COUNTRIES WOULD REDUCE COSTS AND DISCOURAGE SUB-ROSA PAYMENTS TO GOVERNMENT OFFICIALS.

4. UNTIL WE ARE READY TO DISCUSS MATTER MULTILATERALLY, I CAUTION AGAINST RAISING SUBJECT DIRECTLY WITH DUTCH TO AVOID CREATING AN ISSUE WHICH DOES NOT NOW EXIST AND TO AVOID AROUSING SUSPICION THAT US FIRMS MAY HAVE ENGAGED IN IMPROPER PRACTICES IN THE NETHERLANDS.
GOULD

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